

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**RICHARD WOJTCZAK,**  
**Plaintiff,**

**v.**

**PENNSYLVANIA, DEP'T  
OF CORRECTIONS, et al.**  
**Defendants,**

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**No. 1:01-CV-1163**

**(Judge Rambo)**

**(Magistrate Judge Mannion)**

**(Electronically Filed)**

**MOTION OF COMMONWEALTH DEFENDANTS TO STRIKE  
PLAINTIFF'S SURREPLY BRIEF, OR, IN THE ALTERNATIVE,  
FOR LEAVE TO RESPOND TO THE BRIEF**

Defendants, the Pennsylvania Department of Corrections, Jeffrey Beard, Kenneth Kyler, Patricia Yarger, Patty Everhart, and Scott Walters, (hereinafter "the Commonwealth defendants"), through their counsel and pursuant to the Federal Rules of Civil Procedure and local rules, hereby request this Court to strike plaintiff's surreply brief entitled "Plaintiff's Response to Defendant's Brief In Support of a Motion For Summary Judgement [sic] – Motion to Dismiss (Part 2)." Alternatively, Commonwealth defendants respectfully request permission to file a

brief responding to the new argument raised in the surreply brief. Commonwealth defendants have filed their supporting brief simultaneously with this motion.

**WHEREFORE**, the motion of the Commonwealth defendants should be granted and the surreply brief entitled “Plaintiff’s Response to Defendant’s Brief In Support of a Motion For Summary Judgement [sic] – Motion to Dismiss (Part 2)” should be stricken from the record. In the alternative, the Court should grant Commonwealth defendants permission to file a response to this surreply brief.

**Respectfully submitted,**

**GERALD J. PAPPERT**  
**Attorney General**

**By: s/ Amanda L. Smith**  
**AMANDA L. SMITH**  
**Deputy Attorney General**  
**Attorney I.D. 86316**

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**SUSAN J. FORNEY**  
**Chief Deputy Attorney General**  
**Chief, Litigation Section**

**Date: March 2, 2004**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RICHARD WOJTCZAK,</b>	:	
<b>Plaintiff,</b>	:	<b>No. 1:01-CV-1163</b>
	:	
<b>v.</b>	:	<b>(Judge Rambo)</b>
	:	
<b>PENNSYLVANIA, DEP'T</b>	:	<b>(Magistrate Judge Mannion)</b>
<b>OF CORRECTIONS, et al.</b>	:	
<b>Defendants,</b>	:	<b>(Electronically Filed)</b>
	:	

**CERTIFICATE OF SERVICE**

I, Amanda L. Smith, hereby certify that on this date I caused to be served a copy of the foregoing, MOTION OF COMMONWEALTH DEFENDANTS TO STRIKE PLAINTIFF'S SURREPLY BRIEF, OR, IN THE ALTERNATIVE, FOR LEAVE TO RESPOND TO THE BRIEF, by placing it in the United States Mail, postage prepaid, first class, in Harrisburg, PA, addressed to each of the following:

**Richard Wojtczak, AF-5977  
SCI-Laurel Highlands  
5706 Glades Pike  
P.O. Box 631  
Somerset PA 15501**

**s/ Amanda L. Smith  
AMANDA L. SMITH  
Deputy Attorney General**

**DATE: March 2, 2004**